

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

John J. Lacey, Jr.,

Petitioner-Appellant,

v.

Polk County Board of Review,

Respondent-Appellee.

ORDER

**Docket No. 09-77-1498
Parcel No. 090/00805-000-000**

On November 8, 2010, the above captioned appeal came on for hearing before the Iowa Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2)(a-b) and Iowa Administrative Code rules 701-71.21(1) et al. The Appellant, John J. Lacey, Jr. was self-represented. The Polk County Board of Review designated Assistant County Attorney Ralph Marasco, Jr., as its legal representative. The Appeal Board having reviewed the entire record, heard the testimony, and being fully advised, finds:

Findings of Fact

John J. Lacey, Jr., owner of a residentially classified property located at 5611 Grand Avenue, Des Moines, Iowa, appeals from the Polk County Board of Review regarding his 2009 property assessment. The 2009 assessment is allocated as follows: \$45,100 in land value and \$136,900 in improvement value for a total assessment of \$182,000.

The subject property is a two-story, single-family residence with an unfinished attic. The improvements include 1576 square feet of above-grade finish; a full, unfinished basement area that also has a one-car, built-in garage; a 280 square-foot deck; and a small covered front porch. The improvements were built in 1923, and are rated as "very good" condition. According to the property-

record card, the improvements were remodeled in 1991.

Lacey protested his assessment to the Polk County Board of Review. On the protest form he listed two comparable properties and their assessments for consideration, contending his property assessment was not equitable with that of like properties under Iowa Code section 441.37(1)(a). He also asserted there was an error in the assessment, stating that his property only had three bedrooms, not four.

The Board of Review left the value unchanged.

Lacey then appealed to this Board. He reasserted his claim that the assessment is not equitable and of error. He seeks relief of \$32,000, asserting the total correct value of the property is \$150,000, allocated as \$36,000 in land value and \$114,000 in improvement value.

Lacey provided two equity comparables, providing the tax district parcel number, street address, and assessment of each. According to the certified record, both properties offer the same 3-10 grade factor as the subject. The property located at 5617 Grand Avenue, which is directly next door to the subject, is similar to the subject in size and features however, is rated as “normal” condition compared to the subject’s “very good” condition rating.

The property located at 330 56th Street is larger than the subject with 1986 square feet of above-grade gross living area (GLA) compared to the subject’s 1576 square feet of GLA. This property has a “very good” condition rating similar to the subject. While these properties appear to be similar to the subject, Lacey did not indicate the market value of these properties to demonstrate his property is inequitably assessed. Nor did he indicate these properties were assessed using different methods than those used to value his property.

The Board of Review did not present any new evidence. The only analysis in the certified record from the Board of Review appears to be a market value analysis, and no market value claim was

raised before either Board. Accordingly, we do not consider any of the market value analysis presented in the certified record.

Lacey testified that the bedroom count had been corrected and noted the cost sheet included in the certified record did not reflect any attic or basement finish, which is an accurate reflection of the subject improvements. He did not assert any other errors. Although the Board of Review corrected the error, it did not result in a reduction in the assessed value.

While we find Lacey earnest in his belief that he is not equitably assessed he has not submitted sufficient evidence to this Board to support his claim.

Conclusions of Law

The Appeal Board applied the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2009). This Board is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. § 441.37A(3)(a). The Appeal Board considers only those grounds presented to or considered by the Board of Review. § 441.37A(1)(b). But new or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a).

To prove inequity, a taxpayer may show that an assessor did not apply an assessing method uniformly to similarly situated or comparable properties. *Eagle Food Centers v. Bd. of Review of the City of Davenport*, 497 N.W.2d 860, 865 (Iowa 1993). Alternatively, a taxpayer may show the

property is assessed higher proportionately than other like property using criteria set forth in *Maxwell v. Shriver*, 257 Iowa 575, 133 N.W.2d 709 (1965). The six criteria include evidence showing

“(1) that there are several other properties within a reasonable area similar and comparable . . . (2) the amount of the assessments on those properties, (3) the actual value of the comparable properties, (4) the actual value of the [subject] property, (5) the assessment complained of, and (6) that by a comparison [the] property is assessed at a higher proportion of its actual value than the ratio existing between the assessed and the actual valuations of the similar and comparable properties, thus creating a discrimination.”

Id. at 579-580. The gist of this test is ratio difference between assessment and market value, even though Iowa law now requires assessments to be 100% of market value. § 441.21(1). Lacey’s evidence of inequity was incomplete and did not demonstrate a disparity between the subject property assessment and the assessments of other like properties. In this case, Lacey’s evidence did not show his property was over-assessed using either method.

Additionally, Lacey claimed an error in the assessment. The errors asserted to the Board of Review regarding bedroom count and attic finish have been corrected. Lacey did not identify any other errors.

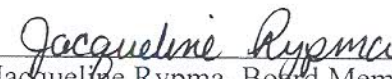
We hold the evidence does not support the claim that the property’s assessment is not equitable with assessments of like properties or that there is an error in the assessment. We therefore affirm the assessment of John J. Lacey, Jr.’s property as determined by the Polk County Board of Review, as of January 1, 2009.

THE APPEAL BOARD ORDERS the assessment of John J. Lacey, Jr.'s property located at 5611 Grand Avenue, Des Moines, Iowa, of \$182,000 as of January 1, 2009, set by Polk County Board of Review, is affirmed.

Dated this 22 day of November, 2010


Karen Oberman, Presiding Officer


Richard Stradley, Board Member


Jacqueline Rypma, Board Member

Cc:

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Certificate of Service	
The undersigned certifies that the foregoing instrument was served upon all parties to the above cause & to each of the attorney(s) of record herein at their respective addresses disclosed on the pleadings on <u>11-23</u> , 2010	
By:	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> FAX
	<input type="checkbox"/> Hand Delivered <input type="checkbox"/> Overnight Courier
	<input type="checkbox"/> Certified Mail <input type="checkbox"/> Other
Signature	